

1 DAVID R. JOHNSON
djohnson@wthf.com
2 Nevada Bar No. 006696
JARED M. SECHRIST
3 jsechris@wthf.com
Nevada Bar No. 10439
4 WATT, TIEDER, HOFFAR & FITZGERALD, L.L.P.
6325 South Rainbow Blvd, Suite 110
5 Las Vegas, NV 89118
Telephone: 702-789-3100
6 Facsimile: 702-822-2650

7 Attorneys for Defendant
Cincinnati Insurance Company

8
9 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

10 VT CONSTRUCTION, INC., a Nevada
11 Corporation,

12 Plaintiff,

13 vs.

14 H2J ENVIRONMENTAL, LLC, a Utah
limited liability company; THE CINCINNATI
15 INSURANCE COMPANY, an Ohio
corporation; and DOES I through X, inclusive;

16 Defendants.
17

CASE NO.: 2:13-cv-00907-GMN-GWF

**JOINT MOTION TO LIFT STAY OF
ALL PROCEEDINGS**

18 COMES NOW the parties, the Cincinnati Insurance Company ("CIC") and VT
19 Construction, Inc. ("VT") by and through their respective counsel of record, hereby jointly
20 request the Court Lift the Stay of all Proceedings Pursuant to Federal Rule of Civil Procedure
21 26(c) and the Court's inherent authority and states as follows:

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23 1. VT Construction, Inc. ("VT") filed its Complaint on May 22, 2013, for breach of
24 contract relating to H2J Environmental, LLC's ("H2J") performance on construction of the Water
25 Storage Reservoir at the Jerriitt Canyon Mine (the "Project"). (ECF No. 1). CIC issued two
26 performance bonds (B-9113871 and B-9113870) naming VT as Obligee and H2J as principal on
27 the Project.
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1 2. On June 26, 2013, CIC answered VT's Complaint. (ECF No. 7).

2 3. On August 9, 2013, the Parties requested a stay for a period of ninety (90) days
3 until the parties completed mediation. (ECF No. 10).

4 4. On August 12, 2013, the Court entered an order granting a Stay of All Proceedings
5 for 90 days. (ECF No. 11).

6 5. On October 10, 2013, the Parties participated in an unsuccessful mediation.

7 6. The Parties now request the Court lift the stay and enter the accompanying
8 discovery schedule.

9 7. The Parties stipulate that CIC be allowed leave to file a third-party complaint
10 against various third-parties within twenty-one 21 days.

11 8. CIC has not filed this Motion for purposes of delay, but for purposes of judicial
12 economy and to schedule necessary case management dates.

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1 WHEREFORE, the parties The Cincinnati Insurance Company and VT Construction, Inc.,
2 respectfully requests the Court lift the stay order for this litigation, enter the accompanying
3 discovery schedule and for such other relief as the Court deems just and proper.
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5 Dated: October 21, 2013

Dated: October 16, 2013

6 WATT, TIEDER, HOFFAR
7 & FITZGERALD, L.L.P.

/s/ David R. Johnson

/s/ Dale B. Rycraft, Jr.

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9 DAVID R. JOHNSON
10 djohnson@wthf.com
Nevada Bar No. 006696
11 JARED M. SECHRIST
jsechris@wthf.com
Nevada Bar No. 10439
6325 South Rainbow Blvd, Suite 110
12 Las Vegas, Nevada 89118

DALE B. RYCRAFT, JR., ESQ.
drycraft@rycraftinjurylaw.com
11500 South Eastern Avenue, Ste. 210
Henderson, Nevada 89052

Attorneys for Plaintiff

13 Attorneys for Defendant
14 Cincinnati Insurance Company
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18 **IT IS SO ORDERED** on October 24, 2013.

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21 GEORGE FOLEY, JR.
22 U.S. MAGISTRATE JUDGE
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PROOF OF SERVICE

I am a citizen of the United States and employed in Clark County, Nevada. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 6325 South Rainbow Boulevard, Ste. 110, Las Vegas, Nevada 89118. On October 22, 2013, I served a copy of the within document(s):

JOINT MOTION TO LIFT STAY OF ALL PROCEEDINGS

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Las Vegas, Nevada addressed as set forth below.
- ☐ by placing the document(s) listed above in a sealed _____ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a _____ agent for delivery.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Dale B. Rycraft, Jr., Esq.
11500 South Eastern Avenue
Suite 210
Henderson, NV 89052

Dale B. Rycraft, Jr., Esq.
The Rycraft Law Firm
2929 N. Power Rd., Suite 101
Meza, AZ 85215
drycraft@rycraftlaw.com

James M. Walsh
Walsh, Baker, Rosevear & Loomis, P.C.
9468 Double R Boulevard, Suite A
Reno, Nevada 89521
dvollmer@wbrl.net

1 Matt Johnson
2 H2matt@gmail.com

3 I am readily familiar with the firm's practice of collection and processing correspondence
4 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same
5 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on
6 motion of the party served, service is presumed invalid if postal cancellation date or postage
7 meter date is more than one day after date of deposit for mailing in affidavit.
8

9 I declare under penalty of perjury under the laws of the State of Nevada that the above is
10 true and correct.
11

12 Executed on October 22, 2013, at Las Vegas, Nevada.

13 /s/ Denise Downey

14 An Employee of Watt, Tieder, Hoffar & Fitzgerald, LLP
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